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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,012	04/28/2005	Norman Stewart Batty	TD/4-22777/MA 2229/PCT	1665
324 7590 01/25/2008 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591				
EXAMINER SANDERS, KRIELLION ANTIONETTE				
ART UNIT 1796			PAPER NUMBER	
MAIL DATE 01/25/2008			DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,012	BATTY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kriellion A. Sanders	1796	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/05</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0161038 in view of Meffert et al., US Patent No. 6,399,679 and further in view of Schlatter, Jr. U.S. Pat. No. 3,915,921.

The EP reference discloses a thickening agent that is suitable for alkaline printing pastes comprising a water soluble, water swellable or water-swollen polymer made by reverse phase polymerization of a blend of copolymerizable monomers in which the monomers comprise at least one ethylenically unsaturated acid having no free acid groups, at least one ethylenically unsaturated acid having salt groups selected from ammonium, amine and a metal and at least one ethylenically unsaturated cross-linking agent, the molar ratio of the free acid groups to the salt groups during the polymerization being from 80:20 to 10:90. Cross-linked polymers formed from monomers including 0 to 3 or 15 to 48% acrylamide are particularly effective. Thickeners for printing pastes may be dispersions of substantially dry polymer particles in oil in which all the acid groups in the polymer are wholly neutralized with ammonia or a volatile amine. See the abstract and claims 1-14.

Meffert et al. discloses the use of hydrophobically modified polymers of monoethylenically unsaturated carboxylic acids as thickeners in hair cleansers, and to aqueous compositions which comprise these polymers.

The thickeners of the invention are derived from copolymers which comprise at least 50% by weight and at most 99% by weight of monoethylenically unsaturated carboxylic acid. Preference is given to polymers containing at least 58% by weight and at most 99% by weight of monoethylenically unsaturated carboxylic acid, and very particular preference is given to polymers with a content of monoethylenically unsaturated carboxylic acid of from 65% by weight to 99% by weight.

The polymers are prepared by free-radical polymerization of the corresponding monomers, which in each case comprise at least 50% by weight of monoethylenically unsaturated carboxylic acid.

The monoethylenically unsaturated carboxylic acids can be used in the copolymerization in the form of the free acid and--provided they exist--the anhydrides, or in partially or in completely neutralized form. These monomers are preferably neutralized using alkali metal bases or alkaline earth metal bases, ammonia or amines.

Patentee's objective is to utilize neutralized, hydrophobically modified polymers of monoethylenically unsaturated carboxylic acids are highly suitable as thickeners for *surfactant-containing compositions*, e.g. in mild shampoo formulations, in particular for compositions which comprise an alkyl or alkenyl polyglycoside.

The patented invention may include other auxiliaries such as preservatives, emulsifiers, oils, stabilizers, pH regulators and dyes.

However, patentee recognizes that it is known in the art to employ copolymers as thickeners for printing pastes comprising 95-50% by weight of monoethylenically unsaturated carboxylic acids and 5-50% by weight of an acrylic acid or methacrylic acid ester of a C.sub.10 - C.sub.30 fatty alcohol. Optionally, the polymers can be crosslinked. The copolymers used as thickeners for printing pastes are disclosed in U.S. Pat. No. 3,915,921.

See col. 1, lines 1-26, col.2, line 19 through col. 5, line 3 and col. 5, lines 43-62.

Schlatzer et al discloses thickeners comprised of polymers of a carboxylic acid monomer and one or more acrylic esters having aliphatic chain length of 10 to 30 carbon atoms. The thickeners are said to be efficient water thickeners which, when neutralized by a basic material, form water mucilages that have much greater resistance to dropping sharply in viscosity when a salt such as sodium chloride is either added thereto, or is already present in said water system, The thickeners of Schlatzer et al provide stability against chlorine.

Patentee indicates that the copolymers provided by the invention may optionally be crosslinked by the inclusion in the polymer system of a crosslinking monomer selected from polymerizable compounds containing a polymerizable ethylenic group. In the monomeric mixture the two essential monomeric materials should be present in certain proportions, although the exact proportions will vary considerably depending on the characteristics desired in the polymer. Two component monomeric mixtures of the carboxylic monomer and the long chain acrylic ester monomer preferably contain 95 to 50 weight percent carboxylic monomer and 5 to 50 weight percent acrylic ester monomer. When the optional crosslinking agent is present, polymeric mixtures containing about 0.1% to about 4% by weight of crosslinking monomer based on the total of carboxylic acid monomer plus the long chain alkyl acrylate ester monomer,

preferably 0.2% to 1.0% by weight based on the total mixture are employed. The polymers of this invention are preferably made by polymerization in an inert diluent having some solubilizing action on one or more of the monomeric ingredients but substantially none on the resultant polymer. Polymerization in an aqueous medium containing a water-soluble free radical catalyst peroxygen is useful, the product being obtained as a granular precipitate. Polymerization in an organic liquid which is solvent for the monomers but a non-solvent for the polymer, or in a mixture of such solvents, in the presence of a solvent-soluble catalyst is most preferred because the product is usually obtained as a very fine friable and often fluffy precipitate which, after solvent removal, seldom requires grinding or other further treatment before use. See col. 1, line 45 through col. 6, line 37.

The technology of applicant's invention is known in the art. The ordinary practitioner in this art seeking to develop a thickener for printing pastes that contains no surfactant would have found it obvious at the time of applicant's invention to utilize the precipitation-polymerized crosslinked copolymers of ethylenically unsaturated acids disclosed by Schlatzer et al., as the second copolymer of the thickening composition, in lieu of, for example, the reverse- phase polymerized copolymers of the EP reference or the emulsion polymerized copolymers of Meffert et al. Each reference provides guidelines as to the appropriate weight ratios of components to use to achieve desired thickening properties. Meffert indicates the inclusion of oils, dyes and additional additives. The ordinary practitioner would have found it obvious to select from these parameters.

The references provided on the International Search Report cited by applicant provide cumulative teachings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kriellion A. Sanders  
Primary Examiner  
Art Unit 1796